



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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OFFICE OF THE
REGIONAL ADMINISTRATOR

July 22, 2013

Michael Keegan
Army Corps of Engineers New England District
Programs and Project Management Division (Mr. Michael Keegan)
696 Virginia Road
Concord, Massachusetts 01742-2751

RE: Final Supplemental Environmental Impact Statement for the Boston Harbor Deep Draft Navigation Improvement Dredging, Boston, Massachusetts (CEQ # 20130172)

Dear Mr. Keegan:

In accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, we have reviewed the U. S. Army Corps of Engineers, New England District (Corps) Final Supplemental Environmental Impact Statement (FSEIS) for the Boston Harbor Deep Draft Navigation Improvement Dredging project proposed in various areas of Boston Harbor. The DSEIS was prepared by the Corps in partnership with the Massachusetts Port Authority (Massport).

The FSEIS details Massport's continuing goal to establish a deeper channel for access to the Conley Container Terminal in South Boston and to make port improvements in the Mystic and Chelsea Rivers and in the Main Ship Channel above the Reserved Channel. The proposed channel deepening is intended to help reduce tidal delays currently experienced by container ships and bulk carriers that use Boston Harbor. The project is expected to generate a total of 10.2 million cubic yards of non-rock dredged material (parent material) and approximately 900,000 cubic yards of rock.

The FSEIS proposes disposal of the majority of the dredged material at the Massachusetts Bay Disposal Site (MBDS)¹ and use of some of the non-rock dredged material (parent material) as cover at the former Industrial Waste Site.² EPA continues to have no objection to the use of the MBDS for disposal of the dredged material or to the use of parent material as cover at the former Industrial Waste Site. Furthermore we continue to view the proposed capping plan as a means to further reduce risk associated with waste barrels that may still exist at the site.

¹ The MBDS is approximately 17 nautical miles east of the entrance to Boston Harbor adjacent to the Stellwagen Bank National Marine Sanctuary.

² The Industrial Waste Site is located 20 miles east of Boston in 300 ft. of water.

In our review of the FSEIS, we focused on the areas we commented on in our previously on the DSEIS, namely, air quality impacts, removal of rock in the project area by blasting, and the potential for beneficial reuse of rock material to construct rock reefs. The attachment to this letter provides detailed comments regarding outstanding air quality issues and it expresses our willingness to work with the Corps to resolve them prior to construction of the project. The FSEIS lacks information to fully describe the potential impacts associated with proposed rock blasting and the creation of rock reefs. We continue to be concerned that there is only limited information available at this point regarding the potential for those impacts and whether measures can be implemented to successfully minimize and mitigate blasting impacts. Many of our other comments on impacts to the marine environment (from our DSEIS comment letter) have not been addressed in the FSEIS and the Corps intends to address them during post EIS design and permitting. We continue to believe that the NEPA process would have been the ideal forum to provide that information and analysis to interested state and federal agencies and the public. Despite our concerns, we remain willing to participate actively on the technical advisory committees related to blasting, sequencing and possibly beneficial reuse of material generated by the project. We also continue to have an interest in exploring the use of clean material to cap the former Industrial Waste Site.

Please feel free to contact me at 617/918-1025 to discuss our comments.

Sincerely,



Timothy Timmermann
Associate Director, Office of Environmental Review

Attachment

**Additional Detailed Air Quality Comments on the Final Supplemental
Environmental Impact Statement (FSEIS) for the Boston Harbor Deep Draft
Navigation Improvement Dredging, Boston, Massachusetts**

- Chapter 4 of the FSEIS, “Environmental Consequences,” includes air quality analyses for Alternative 1 (proposed deepening of Boston Harbor to the minus 45-foot MLLW depth), and Alternative 2 (proposed deepening of Boston Harbor to the minus 50-foot MLLW depth). The proposed action is to deepen Boston Harbor to the minus 47-foot MLLW depth. The FSEIS reports that a qualitative air quality analysis associated with direct emissions would be expected to lie between (be bracketed by) the emissions of Air Quality Analysis Alternatives 1 and 2. Should general conformity be triggered by the final designed/selected project, we request that a quantitative air quality analysis be prepared for the selected navigation improvement project during the design phase.
- Because the Corps of Engineers (Corps) has postponed its general conformity determination to the design phase we request that the NEPA Record of Decision include a commitment to satisfy the provisions of Section 176 (c) of the Clean Air Act, (the general conformity requirements), prior to “take or start the Federal action.” Furthermore, we request that the Corps define the project milestone associated with this “take or start the Federal action.” As pointed out in the Corps’ feasibility report, “take or start Federal action” is defined in the general conformity regulations at 40 CFR 93.152 as the date that the Federal agency signs or approves the permit, license, grant or contract or otherwise physically begins the Federal action that requires a conformity evaluation under this subpart.
- On June 6, 2013 (78 FR 34178 – 34239), EPA proposed the revocation of the 1997 eight-hour ozone National Ambient Air Quality Standard (NAAQS) and anti-backsliding requirements that would apply when the 1997 ozone NAAQS is revoked. This rulemaking is currently open for comment until August 5, 2013. The FSEIS correctly points out that since the project area is attainment for the 2008 ozone NAAQS, general conformity would not apply for ozone after revocation of the 1997 ozone standard. This rule is expected to be finalized in the Spring 2014 time frame. EPA is willing to work with the Corps during the design phase to address general conformity and insure general conformity is satisfied prior to “take or start Federal action.”
- With respect to general conformity to the Boston area (nine communities) carbon monoxide maintenance plan, EPA points out that the maintenance plan will end on April 1, 2016, twenty years after redesignation of the area to attainment. Therefore, the general conformity provisions will not apply to the Boston area after April 1, 2016 for carbon monoxide. General conformity with respect to carbon monoxide must be satisfied should the Corps take or start final action prior to April 1, 2016. The FSEIS identifies a number of emission reduction options to develop a project that remains below the carbon monoxide de minimis threshold of 100 tons per year in order to avoid triggering general conformity for carbon

monoxide. It is possible that the final designed/selected navigation improvement project will exceed the de minimis threshold for carbon monoxide and trigger general conformity. EPA will work with the COE during the design phase to insure the Federal Deep Draft Navigation Improvement Project is in full compliance with Section 176(c) of the Clean Air Act.

- Should general conformity be applicable to the final designed/selected project, then in accordance with 40 CFR 93, the Corps must make public its draft conformity determination by placing a notice by prominent advertisement in a daily newspaper of general circulation in the area affected by the action and by providing 30 days for written public comment prior to taking any formal action on the draft determination. The final conformity determination must also be made public by placing a notice by prominent advertisement in a daily newspaper of general circulation in the area affected by the action within 30 days of the final conformity determination. If the action would have multi-regional or national impacts, the Federal agency, as an alternative, could publish the notice in the Federal Register.